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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,084	07/24/2003	Jorge Cortez	1367-PA02	3516

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EXAMINER

BOEHLER, ANNE MARIE M

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 05/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/628,084

Applicant(s)

CORTEZ, JORGE

Examiner

Anne Marie M. Boehler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/26/2003</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. Claims 5, 8, 15, and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 5 and 15, lines 2-4, "said attachment forks" lack clear antecedent basis in the claims. It appears that "attachment forks" should be -base extensions-.

In claim 8, line 2, "-type" is an indefinite term and should be deleted.

Claims 10 and 19, line 2, "between the end of each said tab and said tongue" is unclear because the tabs, as described in claim 9, are part of the tongue and so could not be spaced from the tongue.

In claim 1, line 1, applicant claims the tow bar is for attaching a storage cart to a vehicle. In line 12, a means for attaching the tongue to a storage cart is claimed. In claim 14, applicant claims structure for attaching a first storage cart to a second storage cart. Also, in claim 16, applicant claims a means to attach the tongue assembly to a cart opposite the mounting base (at an end opposite the base). The types of vehicles that the towbar meant to be attached to describes an intended use for the tow bar and, therefore, has little patentable weight, however, the claim language must still be consistent in order to be clear.

In claim 15, lines 2-4, it appears that "said attachment forks" should be -said extensions-.

In claim 16, "a means to attach said tongue assembly to a cart" should be -said means... - because this means was already recited in claim 1.

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In claim 16, lines 2-3, "at the end opposite said mounting base" is unclear.

2. Claims 1, 6, 9, 14 are objected to because of the following informalities:

In claim 1, line 14, "to a create a" should be -to create a-.

In claim 4, line 3, after "secure" -to- should be inserted.

In claim 6, line 5, "the end" should be -an end-.

In claim 9, line 3, "formed", first instance, should be deleted.

In claim 14, line 3, after "secure", -to- should be inserted.

Appropriate correction is required.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Schellenberg.

Schellenberg shows a towbar 14 with a mounting base 11, left and right base extensions 12, 13, a means for attaching the base extensions to a frame (forks 36, 38) and a means for attaching the tongue to a vehicle (hitch 52).

5. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Maki.

Maki shows a towbar with a mounting base 15b, left and right base extensions 17, 19, a tongue 10, and a means for attaching the bases to a towed vehicle 14 (forked clamps 23-33).

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6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-3, 5-7, 9-13, 15, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maki in view of Pevic.

Maki shows all of the claimed features except a means for pivotally attaching the tongue to the base.

Pevic shows a base for removably connecting a towbar to a vehicle and a towbar tongue 22 pivotally connected to the base.

It would have been obvious to one of ordinary skill in the art to pivotally connect the tongue to the base, as taught by Pevic, in order to reduce stress on the towing connection during use.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maki and Pevic as applied to claims 1-3 and 5-7 above, and further in view of Beach.

The combination shows a hitch tongue aperture that is too small for connection to a ball hitch.

Beach shows a towbar with a ring that can fit over a hitch ball.

It would have been obvious to one of ordinary skill in the art to provide the combination towbar with a hitch ring of the type taught by Beach, in order to provide a sturdier hitch connection.

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9. Claims 1, 3-5, 7, 8, 11 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schellenberg in view of Beach.

Schellenberg shows a towbar with a tongue 52, tongue support 14, hitch, and base 11. Base extensions 12, 13, extend into openings in ends of the base and are attachable at selected positions along the base using pins. Each extension has a fork 36, 38, that can be used to attach the towbar to a vehicle using a vertical pin.

Schellenberg lacks a means for pivotally attaching the tongue to the base.

Beach shows a hitch 12 on a tongue that is pivotally supported at 30.

It would have been obvious to one of ordinary skill in the art to pivotally mount the Schellenberg tongue on the base, as taught by Beach, in order to reduce stresses in the connection. Regarding claims 4 and 14, it would have been an obvious design modification to position the fork arms so their bores extend horizontally, rather than vertically, in order to attach to a vertically oriented frame structure.

10. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schellenberg and Beach as applied to claims 1 above, and further in view of Johnson.

The combination of Schellenberg and Beach lacks a fork with a horizontal bore for pin attachment of the fork to a vertical member.

Johnson shows a towbar with a mounting base 30 attached to a vehicle by forks 32 mounted to end extensions 36. The forks have horizontal bores for attachment to the vehicle using pin connectors 34.

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It would have been obvious to one of ordinary skill in the art to provide the combination towbar with forks for connection to vertical members of the vehicle, as taught by Johnson, in order to provide a simple, effective connection.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Gee, Hansen, Poxleiner, and Adams show removable hitches.

Meyer, Hermbusch, Reese, and Riemann show laterally adjustable hitch mounts. Sexton shows a table moving cart.

Carson Canole, and Penlerick show pivotable hitches.

Harmann shows a hitch removably mounted using a fork and pin connection.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie M Boehler whose telephone number is 703-308-0422. The examiner can normally be reached on 7:30-5:00, Monday-Thursday, and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 4/30/04
Anne Marie M. Boehler
Primary Examiner
Art Unit 3611

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